

Attorney Declaration of Lyle D. Rowen
Case No. 23-cv-3652 (VSB)(SLC)

EXHIBIT I



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plaza Ste 3614
New York, NY 10278-3699

Agency Website www.nlrb.gov
Telephone (212)264-0300
Fax (212)264 2450



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April 18, 2022

Lyle D. Rowen, Associate General Counsel
SEIU, Local 32BJ
25 West 18th Street
New York, NY 10011

Re: SEIU, Local 32BJ
Case 02-CB-294176

Dear Mr. Rowen:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Senior Field Attorney ALLEN ROSE whose telephone number is (212)776-8616. If this Board agent is not available, you may contact Supervisory Attorney SIMON-JON H. KOIKE whose telephone number is (212)776-8621.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board.

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agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

SEIU, Local 32BJ
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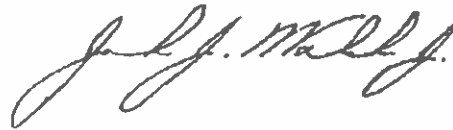
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correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "John J. Walsh, Jr.", written in a cursive style.

JOHN J. WALSH, JR.
Regional Director

Enclosure: Copy of Charge

cc: Nicole G. Berner, General Counsel
Service Employees International Union
1800 Massachusetts Avenue, NW 6th
Floor
Washington, DC 20036-1806

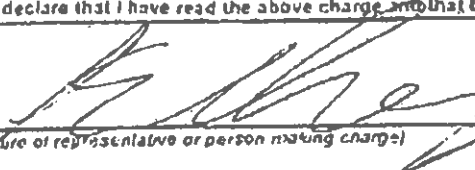
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From

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		DO NOT WRITE IN THIS SPACE	
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		Case	Date filed
		2-CB-294176	4/18/22
INSTRUCTIONS: File an original of this charge with the NLRB Regional Director of the region in which the alleged unfair labor practice occurred or is occurring			
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name SEIU, Local 32BJ		b. Union Representative to Contact Lyle Rowen	
c. Address 25 W. 18 Street New York, NY 10011		d. Tel No (212)388-3452	e. e-Cell No
		f. Fax No	g. e-Mail lrowen@seiu32bj.org
h. The above-named labor organization or its agents have engaged in and are engaging in unfair labor practices within the meaning of section 8(b) subsection(s) (1) (A) of the National Labor Relations Act and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act or are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) Since about April 6, 2022, the above-named labor organization has restrained and coerced employees in the exercise of rights protected by Section 7 of the Act by refusing to arbitrate the grievance of Jon Eric Chaney regarding termination for arbitrary or discriminatory reasons or in bad faith			
3. Name of Employer Lumiera Condominium/AKAM Associates		4a. Tel No	4b. Cell No
		4c. Fax No	4d. e-Mail
5. Location of Plant involved (street city state and ZIP code) 350 West 53rd, New York, NY 10019		6. Employer representative to contact	
7. Type of Establishment (factory mine, wholesaler) Condominium		8. Principal product or service Dwelling	9. Number of Workers employed 10
10. Full name of party filing charge Jon Eric Chaney		11a. Tel No (917)318-4580	11b. Cell No (917)318-4580
		11c. Fax No	11d. e-Mail vandgchaney@icloud.com
11. Address of party filing charge (street city state and ZIP code) 30 Marjer Street, #3-F, Brooklyn, NY 11206			
12. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By  (signature of representative or person making charge)		Tel No (917)318-4580	
Printed name and title or office, if any Jon Eric Chaney An Individual		Cell No (917)318-4580	
Address 30 Marjer Street, #3-F Brooklyn NY 11206		Date 4 16 22	
		Fax No	
		e-Mail vandgchaney@icloud.com	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Submission of the information on this form is authorized by the National Labor Relations Act (NLRA) 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register 71 Fed. Reg. 74942 43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the

NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

1-317732003



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

January 23, 2023

JON ERIC CHANEY
30 MAUJER ST APT 3F
BROOKLYN, NY 11206

Re: Lumiere Condominium
Case 02-CA-291311

SEIU, Local 32BJ (Lumiere
Condominium/AKAM Associates)
Case 02-CB-294176

Dear Mr. Chaney:

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied.

Regarding your charge against the Employer, it fails to establish that you were disciplined for engaging in protected activity under the National Labor Relations Act (the Act) rather than for the legitimate business reasons given by the Employer. Additionally, the evidence fails to establish that you were treated disparately from other employees. Rather, the circumstances surrounding the employees that you alleged were treated differently were factually distinguishable from yours.

Regarding your charge against the Union, the evidence was insufficient to establish a breach of its duty of fair representation as it relates to your discharge. While the Union processed your discharge grievance through the parties' grievance arbitration procedure, the Union in good faith decided not to proceed further because it believed it would not be successful at arbitration. As there was insufficient evidence that the Union had any arbitrary, invidious, or discriminatory motivation with respect to its dealings with you, no violation could be found.

Lumiere Condominium
Cases 02-CA-291311, et al.

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Accordingly, the appeal is denied.

Sincerely,

Jennifer A. Abruzzo
General Counsel



By:

Mark E. Arbesfeld, Director
Office of Appeals

cc: JOHN D. DOYLE, JR.
REGIONAL DIRECTOR
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26 FEDERAL PLZ STE 36-130
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vrn